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HOUSE BILL 765

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Elias Barela

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING AN  
ALTERNATIVE RETIREMENT PLAN FOR PROBATION AND PAROLE OFFICERS;  
RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN  
LAWS 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-2 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees  
Retirement Act:

A. "accumulated member contributions" means the  
amounts deducted from the salary of a member and credited to  
the member's individual account, together with interest, if  
any, credited to that account;

B. "affiliated public employer" means the state and

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1 any public employer affiliated with the association as provided  
2 in the Public Employees Retirement Act, but does not include an  
3 employer pursuant to the Magistrate Retirement Act, the  
4 Judicial Retirement Act or the Educational Retirement Act;

5 C. "association" means the public employees  
6 retirement association established under the Public Employees  
7 Retirement Act;

8 D. "disability retired member" means a retired  
9 member who is receiving a pension pursuant to the disability  
10 retirement provisions of the Public Employees Retirement Act;

11 E. "disability retirement pension" means the  
12 pension paid pursuant to the disability retirement provisions  
13 of the Public Employees Retirement Act;

14 F. "educational retirement system" means that  
15 retirement system provided for in the Educational Retirement  
16 Act;

17 G. "employee" means any employee of an affiliated  
18 public employer;

19 H. "federal social security program" means that  
20 program or those programs created and administered pursuant to  
21 the act of congress approved August 14, 1935, Chapter 531, 49  
22 Stat. 620, as that act may be amended;

23 I. "final average salary" means the final average  
24 salary calculated in accordance with the provisions of the  
25 applicable coverage plan;

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1           J. "form of payment" means the applicable form of  
2 payment of a pension provided for in Section 10-11-117 NMSA  
3 1978;

4           K. "former member" means a person who was  
5 previously employed by an affiliated public employer, who has  
6 terminated that employment and who has received a refund of  
7 member contributions;

8           L. "fund" means the funds included under the Public  
9 Employees Retirement Act;

10          M. "member" means a currently employed,  
11 contributing employee of an affiliated public employer, or a  
12 person who has been but is not currently employed by an  
13 affiliated public employer, who has not retired and who has not  
14 received a refund of member contributions; "member" also  
15 includes the following:

16                   (1) "adult correctional officer member" means  
17 a member who is an adult correctional officer or an adult  
18 correctional officer specialist employed by a correctional  
19 facility of the corrections department or its successor agency;

20                   (2) "hazardous duty member" means a member who  
21 is a juvenile correctional officer employed by the children,  
22 youth and families department or its successor agency;

23                   (3) "municipal detention officer member" means  
24 a member who is employed by an affiliated public employer other  
25 than the state and who has inmate custodial responsibilities at

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1 a facility used for the confinement of persons charged with or  
2 convicted of a violation of a law or ordinance;

3 (4) "municipal fire member" means any member  
4 who is employed as a full-time nonvolunteer firefighter by an  
5 affiliated public employer and who has taken the oath  
6 prescribed for firefighters;

7 (5) "municipal police member" means any member  
8 who is employed as a police officer by an affiliated public  
9 employer, other than the state, and who has taken the oath  
10 prescribed for police officers; [~~and~~]

11 (6) "probation and parole officer member"  
12 means any member who is employed as a probation and parole  
13 officer of the children, youth and families department or the  
14 corrections department or a successor agency of either  
15 department; and

16 [~~(6)~~] (7) "state police member" means any  
17 member who is an officer of the New Mexico state police and who  
18 has taken the oath prescribed for such officers;

19 N. "membership" means membership in the  
20 association;

21 O. "pension" means a series of monthly payments to  
22 a retired member or survivor beneficiary as provided in the  
23 Public Employees Retirement Act;

24 P. "public employer" means the state, any  
25 municipality, city, county, metropolitan arroyo flood control

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1 authority, economic development district, regional housing  
2 authority, soil and water conservation district, entity created  
3 pursuant to a joint powers agreement, council of government,  
4 conservancy district, irrigation district, water and sanitation  
5 district, water district and metropolitan water board,  
6 including the boards, departments, bureaus and agencies of a  
7 public employer, so long as these entities fall within the  
8 meaning of governmental plan as that term is used in Section  
9 414(d) of the Internal Revenue Code of 1986, as amended;

10 Q. "refund beneficiary" means a person designated  
11 by the member, in writing, in the form prescribed by the  
12 association, as the person who would be refunded the member's  
13 accumulated member contributions payable if the member dies and  
14 no survivor pension is payable or who would receive the  
15 difference between pension paid and accumulated member  
16 contributions if the retired member dies before receiving in  
17 pension payments the amount of the accumulated member  
18 contributions;

19 R. "retire" means to:

20 (1) terminate employment with all employers  
21 covered by any state system or the educational retirement  
22 system; and

23 (2) receive a pension from a state system or  
24 the educational retirement system;

25 S. "retired member" means a person who has met all

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1 requirements for retirement and who is receiving a pension from  
2 the fund;

3 T. "retirement board" means the retirement board  
4 provided for in the Public Employees Retirement Act;

5 U. "salary" means the base salary or wages paid a  
6 member, including longevity pay, for personal services rendered  
7 an affiliated public employer. "Salary" shall not include  
8 overtime pay, allowances for housing, clothing, equipment or  
9 travel, payments for unused sick leave, unless the unused sick  
10 leave payment is made through continuation of the member on the  
11 regular payroll for the period represented by that payment, and  
12 any other form of remuneration not specifically designated by  
13 law as included in salary for Public Employees Retirement Act  
14 purposes. Salary in excess of the limitations set forth in  
15 Section 401(a) (17) of the Internal Revenue Code of 1986, as  
16 amended, shall be disregarded. The limitation on compensation  
17 for eligible employees shall not be less than the amount that  
18 was allowed to be taken into account under the state retirement  
19 system acts in effect on July 1, 1993. For purposes of this  
20 subsection, "eligible employee" means an individual who was a  
21 member of a state system before the first plan year beginning  
22 after December 31, 1995;

23 V. "state system" means the retirement programs  
24 provided for in the Public Employees Retirement Act, the  
25 Magistrate Retirement Act and the Judicial Retirement Act;

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1           W. "state retirement system acts" means  
2 collectively the Public Employees Retirement Act, the  
3 Magistrate Retirement Act, the Judicial Retirement Act and the  
4 Volunteer Firefighters Retirement Act; and

5           X. "survivor beneficiary" means a person who  
6 receives a pension or who has been designated to be paid a  
7 pension as a result of the death of a member or retired  
8 member."

9           Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,  
10 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,  
11 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended  
12 to read:

13           "10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
14 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--

15           A. State police member and adult correctional  
16 officer member coverage plan 1 is applicable to state police  
17 members who are not specifically covered by another coverage  
18 plan, ~~[and]~~ to adult correctional officer members and to  
19 probation and parole officer members. The credited service of  
20 a state police member who has held the permanent rank of  
21 patrolman, sergeant, lieutenant or captain and does not hold an  
22 exempt rank or who is assigned to the aircraft division as a  
23 pilot, ~~[or of]~~ and the credited service of an adult  
24 correctional officer member or of a probation and parole  
25 officer member shall have actual credited service increased by

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1 twenty percent for the purposes of state police member and  
2 adult correctional officer member coverage plan 1.

3 B. State police member and adult correctional  
4 officer member coverage plan 1 is applicable to:

5 (1) adult correctional officer members in the  
6 first full pay period after July 1, 2004 if the retirement  
7 board certifies to the secretary of state that, of those adult  
8 correctional officer members to be covered under state police  
9 member and adult correctional officer member coverage plan 1, a  
10 majority of the members voting have voted to approve adoption  
11 of that plan at an election conducted pursuant to [Section 16  
12 of this 2003 act] Laws 2003, Chapter 268, Section 16; and

13 (2) probation and parole officer members in  
14 the first full pay period after July 1, 2008 if the retirement  
15 board certifies to the secretary of state that, of those  
16 probation and parole officer members to be covered under state  
17 police member and adult correctional officer member coverage  
18 plan 1, a majority of the members voting have voted to approve  
19 adoption of that plan at an election conducted pursuant to  
20 Section 6 of this 2007 act."

21 Section 3. Section 10-11-27.1 NMSA 1978 (being Laws 2003,  
22 Chapter 268, Section 10) is amended to read:

23 "10-11-27.1. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
24 OFFICER MEMBER COVERAGE PLAN 1--SERVICE CREDIT REQUIRED.--

25 Notwithstanding the provisions of Section 10-11-27 NMSA 1978,  
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1 to qualify for payment under state police member and adult  
2 correctional officer member coverage plan 1:

3 A. an adult correctional officer member shall have  
4 eighteen months of service credit earned under the state police  
5 member and adult correctional officer member coverage plan 1  
6 subsequent to July 1, 2004; and

7 B. a probation and parole officer member shall have  
8 eighteen months of service credit earned under the state police  
9 member and adult correctional officer member coverage plan 1  
10 subsequent to July 1, 2008."

11 Section 4. Section 10-11-31 NMSA 1978 (being Laws 1987,  
12 Chapter 253, Section 31, as amended) is amended to read:

13 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
14 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--

15 A. A state police member or an adult correctional  
16 officer member under state police member and adult correctional  
17 officer member coverage plan 1 shall contribute seven and  
18 six-tenths percent of salary.

19 B. A probation and parole officer member under  
20 state police member and adult correctional officer member  
21 coverage plan 1 shall contribute sixteen and eleven-hundredths  
22 percent of salary."

23 Section 5. Section 10-11-32 NMSA 1978 (being Laws 1987,  
24 Chapter 253, Section 32, as amended) is amended to read:

25 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL

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1 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--

2 A. The state shall contribute twenty-five and one-  
3 tenth percent of the salary of each state police member and  
4 adult correctional officer member under state police member and  
5 adult correctional officer member coverage plan 1.

6 B. The state shall contribute sixteen and fifty-  
7 nine hundredths percent of the salary of each probation and  
8 parole officer member under state police member and adult  
9 correctional officer member coverage plan 1."

10 Section 6. TEMPORARY PROVISION--STATE POLICE MEMBER AND  
11 ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--ELECTIONS.--

12 On or before October 1, 2007, the public employees retirement  
13 board shall conduct an election to submit to probation and  
14 parole officer members currently contributing under state  
15 general member coverage plan 3 the question of adopting state  
16 police member and adult correctional officer member coverage  
17 plan 1. The election shall be conducted in accordance with  
18 procedures adopted by the public employees retirement board,  
19 and the retirement board shall certify the results of the  
20 election to the secretary of state on or before November 1,  
21 2007.